

Preliminary Remarks
Appln. No.: 09/295,329

Applicants respectfully submit that Aoi et al is not available as a reference and request that the Examiner reconsider and withdraw the rejection based, in part, on Aoi et al in view of the following remarks.

Aoi et al is only available as a reference as of its filing date under 35 U.S.C. §102(e). Under newly amended 35 U.S.C. §103(c):

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under [§103] where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Since the present invention and Aoi et al were commonly owned at the time of the making of the present invention, Aoi et al is not available as prior art under §103(c). Due to the filing date of the instant CPA application, September 19, 2000, the instant application is an application to which the newly amended 35 U.S.C. §103(c) applies.

As to the methods for fulfilling the evidence requirements relating to ownership, see the discussion by the USPTO on its website at ["http://www.uspto.gov/web/offices/dcom/olia/aipa/infoexch.htm"](http://www.uspto.gov/web/offices/dcom/olia/aipa/infoexch.htm).

Fuji Photo Film Co., Ltd. is the assignee of Aoi et al (U.S. Patent 5,945,250) by virtue of an Assignment from all of the inventors thereof executed on August 6, 1997, recorded on December 29, 1997, at Reel 8970, Frame 379 and is also the

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assignee of the above-captioned U.S. Application No. 09/295,329 by virtue of an Assignment from all of the inventors thereof executed on June 21, 1999 and filed with the USPTO on July 19, 1999 (copy enclosed).

The undersigned hereby represents that Aoai et al and the claimed invention were, at the time the invention of the instant application was made, owned or subject to an obligation of assignment to Fuji Photo Film Co., Ltd.

In view of the above, it is respectfully submitted that Aoai et al is not available as art under 35 U.S.C. §103 and it is requested that the rejection under 35 U.S.C. §103(a) be reconsidered and withdrawn.

II. Conclusion

In view of the above, Applicants respectfully submit that their claimed invention is allowable and ask that the rejection under 35 U.S.C. §103 be reconsidered and withdrawn. Applicants respectfully submit that this case is in condition for allowance and allowance is respectfully solicited.

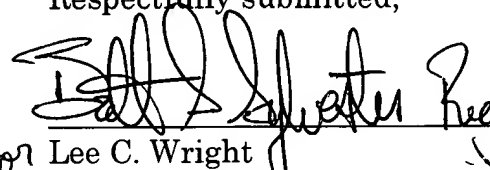
If any points remain at issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local exchange number listed below.

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Applicants hereby petition for any extension of time which may be required to maintain the pendency of this case, and any required fee for such extension is to be charged to Deposit Account No. 19-4880.

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Respectfully submitted,


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Attorney Docket No. Q54114